



## New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	121A	Manual Of Requirements For Adoption Agencies	11/3/2008
Subchapter:	5	Services	
Section	4	<b>Services to birth parents (N.J.A.C. 10:121A-5.4)</b>	

### §10:121A-5.4 Services to birth parents

(a) The agency shall document in the case record all telephone and in-person contacts with the birth parents, birth family members or their legal representative that directly pertain to the adoption. All entries shall be signed by the individual making the entry and include the date of the entry.

(b) The agency shall:

1. Be prohibited from requiring the prospective birth parent(s) to sign a statement committing them to any definite plan for the unborn child in order to obtain services;
2. Be prohibited from requiring the birth parent(s) to surrender a child for adoption in order to receive medical services, maternity or residential care, or any other agency service;
3. Ensure that residential facility care, foster home care and/or maternity services that it provides to clients meets applicable state licensing, certification or approval requirements;
4. Encourage the birth mother to reveal the identity and whereabouts of the birth father;
5. Conduct a reasonable search for the birth father, if the name of the birth father is identified and his location is not known. The agency shall:
  - i. Send notice via regular and certified mail to the last known address of the birth father;
  - ii. Inquire discreetly among any known relatives, friends or employers of the birth father; and
  - iii. Make direct inquiry to public agencies that are believed to have information on the whereabouts of the birth father;

6. Provide the birth father with the opportunity to sign a surrender, a denial of paternity or otherwise exercise parental rights to the child pursuant to N.J.S.A. 9:3-45;

7. At least 20 calendar days before the child's adoption, provide written notification of the impending adoption to:

i. The guardian of a child to be adopted, who has not executed a surrender pursuant to N.J.S.A. 9:3-41;

ii. Any other person who has provided care and supervision in his or her home for the child for a period of six months or half of the life of the child, whichever is less, in the two years prior to the date the complaint was filed in the court by the prospective adoptive parent(s); and

iii. The birth father of the child to be adopted, unless the birth father is not identified or cannot be located after a reasonable search;

8. Inform those persons specified in (b)7 above that they have the opportunity to object to the adoption within 20 days after notice of the adoption is given in accordance with the Rules of Court; and

9. Provide documentation of the agency's compliance with (b)4 through 8 above in the case record.

(c) Before taking a surrender, the agency shall document that the birth parents were:

1. Provided at least three face-to-face counseling sessions conducted in a private and professional setting as specified in N.J.A.C. 10:121A-3.7(e), or at the birth parents' home, by qualified social work staff on separate days and that the birth parents were:

i. Offered counseling that fully:

(1) Explores alternatives to adoption;

(2) Addresses any presented emotional problems;

(3) Includes referrals to mental health agencies when such emotional problems interfere with the birth parents' decision-making regarding adoption; and

(4) Explores alternative plans for the child, including, but not limited to, temporary foster care, day care and care by relatives;

ii. Informed that only legal parents or legal guardians have the right to custody and control of their child and to surrender their child for adoption;

iii. Prepared, along with the child, for surrender and separation;

iv. Referred to other community resources when the agency cannot provide needed services;

v. Informed that the agency may contact them in the future if the adult adoptee or adoptive family or emancipated minor requests information or wishes to meet the birth parents;

vi. Advised that they may sign a written agreement at any time indicating their willingness to be contacted and/or to provide information if requested by the adoptee or adoptive family;

vii. Asked to update and submit to the agency their address(es) and/or any significant medical information required on the Medical Information Form, so that the medical information could be shared with the adoptive family and/or the adult adoptee; and

viii. Requested to provide an itemized statement for all adoption-related costs, if any, paid by the prospective adoptive parents prior to agency involvement in the adoption or an affidavit that no money was expended; and

2. Requested to sign a statement that indicates either:

i. The agency explained the information in (c)1 above to them; or

ii. They refuse to participate in the counseling sessions.

(d) The agency shall ensure that the birth parents understand the terms of the surrender and realize that the agency will assume custody and will have the right to consent to adoption of the child, pursuant to N.J.S.A. 9:3-41 and 30:4C-23.

1. The agency shall ensure that the full terms of this understanding are delineated in writing, signed and dated by the birth parent(s) and agency and maintained on file.

2. The agency shall ensure that the surrendering parent(s) is given the opportunity to state any preferences that he and/or she may have affecting the selection of adoptive parent(s), including specifying the adoptive parent(s) in a conditional surrender.

3. If the agency accepts a conditional surrender, the agency shall not permit any preferences stated by the surrendering parent(s) to interfere with the agency's authority and responsibility to act in the best interests of the child in selecting adoptive parents and the agency's obligation not to discriminate in the selection of adoptive parents, as specified in N.J.A.C. 10:121A-1.7(b). If the agency determines that the adoptive parent(s) specified by the surrendering parent(s) can not be approved, the agency shall either:

i. Return the child to the surrendering parent(s);

ii. Discuss with the surrendering parent(s) an alternate choice of adoptive parent(s) and if they reach an agreement, place the child with the alternate adoptive parent(s); or

iii. If the agency can not meet the provisions specified in (d)3i or ii above, initiate appropriate action through the court to determine the legal status of the child.

4. The agency shall not take a surrender before the child is 72 hours old.

5. Each surrender shall be acknowledged by an agency representative and shall be notarized. The agency representative and the notary shall not be the same person; however, the notary may be a staff member from the agency.

6. The agency shall document the following:

i. The names of the persons who were present at the time of the surrender;

ii. Where the surrender was taken; and

iii. The agency representative's observation of the birth parents' demeanor and competence during the discussion of the surrender and a statement that the birth parents were not coerced.

7. A valid surrender executed in another state or foreign country by a resident of that state or country shall be deemed a valid surrender in this State if taken more than 72 hours after the birth of the child.

8. The agency shall document that birth parents who cannot read English fully understood the meaning of surrender.

9. The agency shall not delay returning a child to a birth parent(s) who decided not to surrender solely because the parent(s) is unable to pay medical and/or other fees.

(e) The agency shall request the court to terminate parental rights where state law provides grounds for termination of parental rights and there is reason to believe that termination of parental rights is necessary for the protection of the child.

(f) The agency shall provide at least one in-person contact with birth parents who request counseling after the child is freed for adoption.

(g) An agency that arranges for, provides directly, finances or subsidizes the costs of adoption expenses, as specified in N.J.A.C. 10:121A-5.8(i)1viii, of a birth mother shall comply with all of the following:

1. The agency shall maintain on file a written policy that governs payments made on behalf of birth mothers.

i. A copy of this policy shall be given to each birth mother and prospective adoptive parent at the time of initial inquiry or application; and

ii. The birth mother shall be advised in writing, that any services or payments that she may be granted will be made to her without

regard to her present or future decision to surrender her child(ren) for adoption and that the agency will not require or request reimbursement from her for such services and/or payments.

2. Unless the birth mother terminates her relationship with the agency, the agency shall notify the birth mother in writing at least 30 calendar days prior to the date of its last services or payments for adoption-related services, that services and/or payments will be terminated by the 30th calendar day following the birth of the child or after the 30th calendar day following the signed release for termination of parental rights for whom adoption services were sought. The agency shall also notify the birth mother in writing within 30 days when the agency documents that the need for such services or payments no longer exists.

3. The agency shall maintain in its case files any receipts, cancelled checks and/or invoices or photocopies of such receipts, cancelled checks